

Stanley G. Emert, Jr.

2318 2d Avenue, Ste. 850 MAIL SECTION
Seattle, Washington 98121
(206) 525-5459

MAY 29 9 28 AM '92

May 28, 1992

RECEIVED BY

The Honorable Donna R. Searcy, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: MM Docket No. 92-62
Seelyville, Indiana

RECEIVED

MAY 29 1992

Federal Communications Commission
Office of the Secretary

Dear Ms. Searcy:

I enclose the original and proper copies of the "Opposition to Motion to Enlarge Issues" for filing in the above-captioned matter on behalf of Crystal Clear Communications, Inc.

Please send a stamped copy of the same to me in the self addressed stamped envelope.

Thank you for your kind assistance.

Sincerely,



Stanley G. Emert, Jr.

SGE:
Enclosure

cc: Per Certificate of Service

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Before the
Federal Communications Commission MAY 29 9 28 AM '92
Washington, D.C. 20554

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In re:

Applications of

)

MM Docket No. 92-62

CRYSTAL CLEAR COMMUNICATIONS, INC.

)

File No. BPH-901214MJ

THE RADIO MINISTRIES BOARD OF VICTORY
CHRISTIAN CENTER ASSEMBLY OF GOD, INC.

)

File No. BPH-901217MJ

For Construction Permit
for a new FM Station in
Seelyville, Indiana

To: The Honorable John Frysiak
Administrative Law Judge

RECEIVED
MAY 29 1992
Federal Communications Commission
Office of the Secretary

OPPOSITION TO "MOTION TO ENLARGE ISSUES"

Crystal Clear Communications, Inc. ("Crystal Clear"), by and through counsel, for opposition to the motion to enlarge issues filed by The Radio Ministries Board of Victory Christian Center Assembly of God, Inc. ("Radio Ministries"), hereby shows:

1. The challenge to Crystal Clear relates to its specified tower site. The law is that some firm understanding is essential to satisfy the Commission's requirements as to reasonable assurance of tower site availability. *William F. Wallace* 49 FCC 2d 1424 (Rev. Bd., 1974). In the case at hand, Crystal Clear held a letter from a realtor as to the property Crystal Clear indicated to use as its tower site. That letter confirmed the conversations between Crystal Clear's President and the realty agent. Specifically, the letter set forth the terms and conditions of the sale of the property to Crystal Clear. This letter is attached to Exhibit 1 hereto.

2. Lorie Shauntee ("Shauntee"), whose Declaration is attached as Exhibit 1 hereto, Crystal Clear's sole officer, director and voting shareholder, further showed that she contacted the realty agent, and thereafter received the letter mentioned above, as a result of their discussions. The letter, dated December 3, 1990, predated the filing of Crystal Clear's application by approximately two (2) weeks, all of which shows that the Commission's requisite meeting of the minds did take place. The applicant knew the

price, terms and availability of the chosen site.

3. Secondly, Crystal Clear's broadcast consultant, Charles J. Thompson, confirmed the arrangement between the applicant and the agent, as is shown in Exhibit 2. There, Mr. Thompson relates his recollection of early conversations with the realty agent, and shows that the discussions culminated in the December 3, 1990, letter.

4. Finally, it is noteworthy that FAA approval has not yet been received by either applicant. This prompted Ms. Shauntee to attempt to gain the availability of other sites whereby that FAA approval could be received. This further shows that it was at this time that Ms. Shauntee was able to confirm that the originally specified tower site had been sold, and apparently was no longer available to her. Since the thirty day period from the determination of the sale and unavailability has not yet expired, Crystal Clear will be within the prescribed time to file an amendment as to its site.

5. In sum, Crystal Clear found the availability of a tower site through a realty agent. It then found the price of that property. It further found that the property was sufficiently large to house the proposed tower. As a result, it is manifestly evident that Crystal Clear did, indeed, meet the Commission's requirements as to reasonable assurance of tower site availability.

6. Based on the foregoing, Crystal Clear requests Radio Ministries' motion to enlarge issues be DENIED.

Crystal Clear Communications, Inc.

By: Stanley G. Emert, Jr.
Stanley G. Emert, Jr.
Its Attorney

Law Office of Stanley G. Emert, Jr.
2318 2d Avenue, Ste. 845
Seattle, Washington 98121
(206) 525-5459

May 28, 1992

DECLARATION

I, Lorie M. Shauntee, hereby declare under penalty of perjury, the following is true and correct:

1. I am the President, Secretary/Treasurer, sole Director and sole voting stockholder of Crystal Clear Communications, Inc. ("Crystal Clear"), an applicant for a new FM station to be licensed to the community of Seelyville, Indiana.

2. Prior to December 14, 1990, I was working with broadcast consultant, Charles J. Thompson, to assist me in certain aspects of the preparation of Crystal Clear's application. One of the aspects related to the selection of the tower site. Additionally, I was placed in contact with Brigitte Wassel, a realty agent who worked with Tom Thompson & Associates, a Century 21 realty company, with regard to the site selected.

3. Following discussions with Ms. Wassel as to site availability, I discovered that the property (30 acres) was for sale at the price of \$60,000.00. This was confirmed to me in a letter dated December 3, 1990, from Ms. Wassel to me. I attached a copy of that letter to my Declaration.

4. Subsequently, Crystal Clear had not received FAA approval on its tower site, and there had been no other approval yet as a result of their request for further study. Through counsel, Crystal Clear sought information as to the FAA approval of the sole competing applicant's site. Ultimately, it was discovered that the competing applicant did not have FAA approval either.

5. At approximately the same time, the applications were designated for a hearing, and, upon advice, I visited the area of the tower site to determine the availability of other sites. At that time, I discovered that there were alterations to the

area of the site I specified. I tried to reach Ms. Wassel, but found that she had left the company and was no longer involved in real estate. I did discover that Crystal Clear's tower site had been sold. I could find nothing else out about the site.

6. Crystal Clear is still within the period of time of thirty (30) days from the confirmation of the sale of the site. I have determined the availability of other sites, and am working to amend the Crystal Clear application at this time.

I declare under penalty of perjury the foregoing is true and correct.

Dated: May 28 1992


Lorie M. Shauntel



TOM THOMPSON & ASSOCIATES

674 Ohio Street
Terre Haute, Indiana 47807
Business (812) 238-1771
Business (800) 223-3270
Fax (812) 234-4345

December 3, 1990

Crystal-Clear Communications, Inc.

P.O. BOX. 6152

Terre Haute, Indiana 47802

Re: Property located at Chamberlain Road.

Dear Ms. Shauntee,

This letter is to confirm that if you are awarded the construction permit to build a new FM (Channel 240-A) radio station in Seelyville, Indiana, by the Federal Communications Commission, you may purchase the property at Chamberlain Road consisting of 30 acres for the price of \$60,000.

You will be responsible for obtaining all necessary permits and authorizations from any governmental entities related to any construction that you do.

If the property is sold or otherwise disposed, I will promptly inform you.

Sincerely, *Brigitte Wassel*

Each Office Is Independently Owned And Operated

DECLARATION

I, Charles J. Thompson, hereby declare under penalty of perjury, the following is true and correct:


1. In 1990 I was the broadcast consultant for Crystal Clear Communications, Inc. One of the services I provided was assistance in the location and acquiring rights for a tower site.

2. After locating the area for the site with the aid of Olive Sisk, Consulting Engineer, I contacted Tom Thompson & Associates, a Century 21 Realty Company in Terre Haute, Indiana, for further help in locating a particular plot of land within the specified area. The person with the Company to whom I spoke was Brigitte Wassel. After discussions with Ms. Wassel, I related my conversations to Lorie Shauntee. I also suggested to Ms. Shauntee that she contact Ms. Wassel for further discussions.

3. The particular land Ms. Wassel made available was the land ultimately specified in Crystal Clear's application. After the filing of the application, I have had little involvement in the Crystal Clear matter. At no point in time until now have I ever been informed that the tower site located through Ms. Wassel was unavailable.

I declare under penalty of perjury the foregoing is true and correct.

Dated: May 28th 1992


Charles J. Thompson

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing "Opposition to 'Motion to Enlarge Issues'" has been sent by prepaid United States mail, first class, on the 28th day of May, 1992, to the following:


The Honorable John M. Frysiak
Federal Communications Commission
2000 L. Street, N.W.
Washington D.C. 20554

Charles Dziedzic, Esq.
Chief, Hearing Branch
Federal Communications Commission
2025 M Street N.W.
Room 7212
Washington D.C. 20554

Chief, Data Management Staff
Audio Services Division
Mass Media Bureau
Federal Communications Commission
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2033 M Street, N.W.
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Counsel to THE RADIO MINISTRIES BOARD OF VICTORY
CHRISTIAN CENTER ASSEMBLY OF GOD, INC.



Stanley G. Emert, Jr.